



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding APPLE VALLEY MOBILE HOME PARK LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, FF

Introduction

On July 18, 2017, the Landlord submitted an Application for Dispute Resolution asking for an order that the Tenant comply with the park rules and the tenancy agreement. The Landlord also requests to recover the filing fee for the Application.

The matter was scheduled as a conference call hearing. Both parties appeared at the hearing. The Tenant was assisted by an advocate and his legal counsel. The hearing process was explained and the participants were asked if they had any questions. The parties testified that they exchanged the documentary evidence before me. Both parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

In this decision I only describe the evidence relevant to the issues and findings in this matter.

Issues to be Decided

- Is the Tenant in breach of the park rules or the tenancy agreement?

Background and Evidence

The parties testified that the tenancy began in September, 1997. The parties entered into an agreement for the Tenant to rent a manufactured home site. The Tenant currently pays pad rent in the amount of \$404.00 per month on a month to month basis. Rent is due on or before the first day of each month.

The Landlord provided a copy of the tenancy agreement.

The Landlord, Ms. J.S. testified that the Tenant has been difficult to deal with. The Landlord testified they have had issues with the Tenant regarding pets and the parking of a boat.

The Landlord testified that at the end of June 2017, the Tenant removed his boat from the storage area and parked it in front of his home. The Landlord testified that the Tenant asked to have the cheques he provided for payment of storage destroyed as he does not want to pay for the storage anymore. The Landlord testified that the Tenant did not return the key for the storage compound.

The Landlord testified that on July 1, 2017, the Tenant was contacted about parking his boat in front of his home, and was informed about the park rules regarding parking the boat in front of his home.

The Landlord also testified that the Tenant has obtained a dog without requesting and receiving consent. The Landlord also testified that the Tenant owns a cat that runs loose in the common areas and cat feces has been found around the park. The Landlord testified that the dog was not approved and will be too large for the park at adult growth.

The Landlord also submitted that the Tenant has boarders which are prohibited by the park rules.

The Landlord provided a copy of the park rules effective November 1, 2016. The park rules state:

- Only single family occupancy is permitted. No boarders.
- New pets are not permitted unless specifically approved by the Park. Cats currently residing within the park shall be indoors or leashed outside at all times.
- Two licensed and insured vehicles per lot are permitted per lot. Trailer or RV parking is not permitted on any street in the park. Storage compound use will be by separate rental agreement with the Park.

The tenancy agreement provided by the Landlord contains a term that states that storage of boats , campers, trailers, snow mobiles, or other such things will not be permitted except with the written permission of the management. Tenants must apply for the use of the storage area.

The tenancy agreement also states that the Tenant will not keep any pets on the premises or surrounding properties except as noted and initialled by the Landlord in the space below. The space for noting pets is blank.

The Landlord provided copies of two warning letters sent to the Tenant in July 2017, and September 2017. The July warning letter indicates the Tenant is in violation of the park rules regarding parking of the Tenant's boat and trailer. The September warning letter indicates the

Tenant is in violation of the park rules regarding pets and the parking of a utility trailer on the street.

The Landlord is seeking an order for the Tenant to comply with the Park rules and remove the dog from the park.

In response to the Landlords submissions, the Tenant testified that he has lived in the park for 20 years and has never been difficult.

The Tenant testified that he has received a copy of the Park rules and is aware of them.

The Tenant submitted that he removed his boat from the front of his home in late August 2017. He submitted that the utility trailer has also been moved. He submitted that he was not able to move them to his other property as quickly as he intended due to wildfire issues and he did not want to continue paying for storage. He submitted that the boat and trailer are a non-issue. He submitted that he returned the storage key to the Landlord's mailbox on July 1, 2017.

The Tenant testified that he does not own a cat and does not have boarders. The Tenant's advocate submitted that the issue regarding the cat and boarders is not the Tenant's issue.

The Tenant concedes that he did not ask permission prior to getting a dog. He testified that he got a border collie on July 30, 2017. He suggested that the park rule regarding pets and the size of pets is not consistently applied because another occupant was permitted to get an 80 lb Labrador dog. He submitted that the Labrador may have been a service dog; however, he suggests that the Landlord changes the park rules to suit her needs. He submitted that he finds the Landlord to be unapproachable when there are issues.

The Tenant submitted that he purchased a house in another community and spends 50% of his time there. The Tenant is requesting that he be permitted to keep the dog with him in the park.

The Tenant's advocate submitted an article from a newspaper that reports there are several complaints about the Landlords management style in the park. The Advocate submitted that they have over 15 Tenants seeking assistance in dealing with the park manager.

In response, the Landlord submitted that the person who complained to the newspaper was an instigator, and there was no improper behaviour of park management. The Landlord submitted that they were not made aware of the allegations that other park Tenants are seeking assistance until they received the disclosure for this hearing. They submit that the allegations are hearsay.

The Landlord submitted that there are more than 60 units in the park and there are issues with less than 10% of the occupants.

The park owner submitted that they are always willing to negotiate with Tenants and submitted that the Tenant should have approached them about the dog. The Landlord submitted that they will consider allowing the Tenant to keep the dog, but they will need to canvas other Tenants in the park before they make a decision.

Analysis

Section 18 of the *Manufactured Home Park Tenancy Act* (the Act) states:

A tenancy agreement may include terms or conditions doing either or both of the following:

- (a) prohibiting pets, or restricting the size, kind or number of pets a tenant may keep on the manufactured home site;*
- (b) governing a tenant's obligations in respect of keeping a pet on the manufactured home site.*

Section 32 of the Act states:

In accordance with the regulations, a park committee, or, if there is no park committee, the landlord may establish, change or repeal rules for governing the operation of the manufactured home park.

(2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.

(3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.

(4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict.

With respect to the issue of pets, I find that the Landlord has the authority to prohibit or restrict the number and size of pets on the manufactured home site. I find that the Tenant was aware of the park rules with respect to obtaining a new pet.

I also find that the Tenant received a warning letter from the Landlord in September 2017, regarding the unauthorized dog.

I find that the Tenant is in breach of the tenancy agreement and the park rules with respect to having a dog. The Landlord has the right to ask the Tenant to remove the dog from the park.

Unless the parties enter into a written agreement that states otherwise, I order the Tenant to remove the dog from the manufactured home site and property. If the Tenant does not comply

within a reasonable period of time after receiving my Decision, the Tenant may be found to be in breach of a term of tenancy, or be in non-compliance with my order and the Landlord is at liberty to issue a notice to end tenancy.

With respect to the parking of the boat and trailer, I accept the Tenant's submissions that the boat and trailer have been removed from the property. I find that the Landlord has the authority to establish a park rule that prohibits parking of boats and trailers in front of the homes in the park. While I acknowledge the Tenant's reason for the delay in moving the boat and trailer from his home, I find that the Tenant was in violation of the park rules regarding parking and storage of these items.

With respect to the allegations regarding unauthorized occupants or boarders, I find that the Park rules prohibit boarders; however, there is insufficient evidence from the Landlord to establish that the Tenant had a boarder.

I also find that there is insufficient evidence from the Landlord that the Tenant owns a cat.

With respect to the Tenant's allegations that a number of residents of the Park have concerns with the way the park manager carries out her duties, I do not find that these allegations have any bearing on my Decision. The Application before me is from the Landlord who is seeking an order for the Tenant to comply with the tenancy agreement and park rules. I do not have an application before me from the Tenant. Other than the issues within the Landlord's application, I have no authority to decide whether or not the Landlord has breached the rights of the Tenants. I make no finding on the allegations and place no weight on the allegations that the Landlord has acted inappropriately.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since I find that the Tenant is in breach of the park rules, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I grant the Landlord a monetary order in the amount of \$100.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant must comply with the tenancy agreement and the park rules established by the Landlord. Specifically, the Tenant must comply with the park rules regarding parking, and storage of vehicles, and the rules regarding pets.

Unless the parties enter into a written agreement that states otherwise, I order the Tenant to remove the dog from the manufactured home site and property within a reasonable amount of time.

If there are further breaches of the park rules regarding parking and storage of vehicles or with respect to pets, the Landlord is at liberty to issue a notice to end tenancy for breach of a term of tenancy or for non-compliance with my order.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: October 05, 2017

Residential Tenancy Branch